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October 15, 1993

920260

Mr. Steve C. Tribble
Director, Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32301

Re: Docket No. 910163-TL and 900960-TL

Dear Mr. Tribble:

Enclosed please find an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Request for Confidential Classification, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely yours,

J. Phillip Carver (BW)

J. Phillip Carver

Enclosures

cc: All Parties of Record
A. M. Lombardo
Harris R. Anthony
R. Douglas Lackey

CERTIFICATE OF SERVICE
Docket No. 920260-TL
Docket No. 910163-TL
Docket No. 910727-TL
Docket No. 900960-TL

I HEREBY CERTIFY that a copy of the foregoing has been furnished by United States Mail this 15th day of Oct., 1993 to:

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J. Philip Carver (pw)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition on behalf of Citizens of the State of Florida to initiate investigation into integrity of Southern Bell Telephone and Telegraph Company's repair service activities and reports.	)	Docket No. 910163-TL
In re: Show cause proceeding against Southern Bell Telephone and Telegraph Company for misbilling customers.	)	Docket No. 900960-TL
	)	Filed: Oct. 15, 1993

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION

COMES NOW BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell" or "Company"), pursuant to Rule 25-22.006, Florida Administrative Code, and files its Request for Confidential Classification and states as grounds in support thereof the following:

1. The Office of Public Counsel ("Public Counsel") issued a Notice of Deposition in docket No. 900960-TL in order to take the depositions of Southern Bell employees on August 30 through September 2, 1993, in Jacksonville, Gainesville, Daytona Beach, Merritt Island, and Ft. Pierce, Florida. The deposition of Southern Bell employee Shelba A. Hartley, who was deposed on August 30, 1993, in Jacksonville, Florida, has been transcribed and was received by Southern Bell on September 23, 1993. A Notice of Intent to Seek Confidential Classification of certain information contained in this deposition was promptly filed. Southern Bell has since determined that this deposition does not contain confidential information. Accordingly, the deposition of

Shelba Hartley is not encompassed within this request for confidential classification.

2. Public Counsel also issued a Notice of Deposition in docket No. 910163-TL in order to take the panel deposition on September 10, 1993 in Jacksonville, Florida of Southern Bell employees Charles J. Sanders and C. L. Cuthbertson. This deposition was transcribed and was received by Southern Bell on September 23, 1993. A Notice of Intent to Seek Confidential Classification of certain information contained in this deposition was promptly filed. Southern Bell's Request for Confidential Classification is due under Rule 25-22.006(3)(a), Florida Administrative Code, on or before October 15, 1993.

3. During this deposition numerous questions were asked and answered that entailed the disclosure of information regarding Southern Bell employees that may relate to the matters at issue in this docket. Some of this employee-related information is entitled to confidential classification. Accordingly, Southern Bell hereby files this Request for Confidential Classification.

4. Southern Bell has filed as Attachment "A" a listing of the specific pages and lines of the deposition that contain proprietary confidential information, which has been correlated so that the page and line are "identified with the specific justification proffered in support of the classification of such material". Rule 25.22.006(4)(c). Southern Bell has also filed a highlighted version of the deposition in a sealed container,

which is marked as Attachment "B". Finally, Southern Bell has filed two redacted copies of the deposition as Attachment "C".

5. Southern Bell seeks confidential treatment of certain employee information described below. This information is clearly confidential and proprietary under Florida Statutes, Section 364.183(f), which provides that "proprietary confidential business information" includes "employee personnel information unrelated to compensation, duties, qualifications, or responsibilities."

6. Specifically, during this deposition, numerous questions were asked and answered that required the disclosure of discipline that was administered to certain Southern Bell employees. Southern Bell seeks confidential treatment only of the specific identities of the employees disciplined. This information is clearly confidential and proprietary under Florida Statutes, § 364.183(f), which provides that "proprietary confidential business information" includes "employee personnel information unrelated to compensation, duties, qualifications, or responsibilities."

7. The four areas of employee personnel information that are not confidential pursuant to § 364.183(f), Florida Statutes, are compensation, duties, qualifications, and responsibilities of an employee. Employee discipline does not fit any of the exceptions and thus is confidential under § 364.183(f), Florida Statutes.

8. A review of these terms, in the context of § 364.183(f), Florida Statutes, reveals their meaning. "Compensation" is the amount of money or other value that an employee is paid to perform his or her job duties. "Duties" are the particular acts an employee is expected to perform as a part of his or her job. "Qualifications" are the skills, knowledge, and abilities needed to perform a particular job. Finally, "responsibilities" are those things that an employee is obliged to do as part of his or her job. These meanings are confirmed by the dictionary definition of these words. Webster's definitions of these terms are as follow:

A. Compensation - payment, wages.

B. Duty - the action required by one's position or occupation.

C. Qualification - something that qualifies; a condition that must be complied with.

D. Responsibility - the quality or state of being responsible.

Webster's Seventh New Collegiate Dictionary, 1970. A reading of these commonly-understood definitions makes it clear that the disciplining of an employee is not encompassed within any of the concepts or definitions set forth above.

9. The names of the employees who have been disciplined, therefore, do not relate to their compensation, duties, qualifications, or responsibilities. Instead, the name of an employee who has been disciplined is a personnel-related matter, the disclosure of which would be highly damaging to the reputation of the employee in the community at large. Certainly,

§ 364.183, Florida Statutes, was not intended to require such disclosure.

10. If this Commission were to interpret § 364.183, Florida Statutes, to require public disclosure of the name of a disciplined employee, then there would be nothing protected from disclosure. Put another way, a broad reading of the exceptions to 364.183(f), Florida Statutes, would reduce the public disclosure exemption for employee information to the point of nonexistence. Obviously, if the legislature had intended for this statute to be read in a way that would make the employee information exemption uniformly unavailable and essentially pointless, then it would simply not have bothered to create the exemption in the first place.

11. In this particular case, though, there is an equally compelling reason that these documents should be treated as confidential. Section 364.183, Florida Statutes, provides that in addition to the specifically identified types of documents that are confidential, such as those enumerated in subsection (f), any document that, if disclosed, "would cause harm to the ratepayers or the person's or company's business operations ... is also entitled to protection." The potential for harm to Southern Bell's business operations that would result from disclosure of the subject information is great.

12. The discipline of Southern Bell's employees in this matter was the result of a thorough, privileged internal investigation that was designed to determine whether or not a

repair reporting problem existed. The level of any disciplinary action that was taken was based upon the magnitude of the actions of the particular employees in question. It was never contemplated by either the Company or the individuals involved that, in the aftermath of this effort by Southern Bell to police itself, there would be a subsequent public disclosure that would subject the disciplined employees to the additional punishment of public opprobrium and scorn. In effect, any public disclosure of the names of the disciplined employees would convert internal discipline into an inappropriate and inflammatory "public shaming" of these employees.

13. Inasmuch as this docket already has resulted in widespread publicity as to Southern Bell, it is probable that the public disclosure of the identities of these employees would also be widely published. This exposure is unnecessary where, as here, the press will have access to all disciplinary information, except for the names of the employees themselves. Thus, for example, the number of employees disciplined, the basis for the discipline and the type of discipline would all be publicly available.

14. The public disclosure of the names of disciplined employees would have a significantly deleterious effect on morale that, in turn, would serve as a practical impediment to the functioning of the Company. Those who have cooperated with the efforts of the company to police itself have done so on the well-founded assumption that the information would be handled

discreetly, appropriately, and that it would result in discipline that was warranted. If Southern Bell is now forced to reveal publicly the names of the employees disciplined, then the employees who have cooperated will no doubt feel that their good faith efforts to address any problems that may have occurred have been betrayed. It is easy to see how this sense of betrayal could result in morale problems that would be both widespread and severe.

15. Moreover, public disclosure could well result not only in general morale problems, but also in a general employee wariness and concern that would make future attempts to remedy problems far more difficult. Southern Bell can only effectively investigate an internal problem with the cooperation of its employees. If the lesson to be learned by employees in this particular instance is that any cooperation may result in exposure of disciplined employees to the additional ordeal of public ridicule, then the prospect of obtaining adequate employee cooperation to address effectively any future problems diminishes significantly.

16. Further, the managers of Southern Bell who are charged with the duty of administering employee discipline will unquestionably be hesitant to do so if they know that any employee disciplined for even the most minor infraction may later have that discipline disclosed and widely published.

17. Finally, to reveal this information publicly would serve no purpose whatsoever. Arguably, if disclosure of the

identities of these employees served some public purpose, or if this disclosure were necessary for this Commission to deal thoroughly with the issues of this docket, then a balancing test might be necessary. That is, the Commission would need to balance the benefits to be derived from public disclosure against the detriment to the Company and the employees. In this case, however, public disclosure will result in no benefit whatsoever.

18. This Commission can fully consider all issues pertinent to this docket, based on the information that Southern Bell has provided, which includes the names of employees disciplined. It is only the public disclosure of these employees' names that Southern Bell seeks to prevent. Southern Bell has stated that it does not object to public disclosure of the extent of the employee discipline, the type of discipline, and the number of persons disciplined. There simply is nothing to be gained by the additional, public disclosure of the identities of the particular persons disciplined. Florida Statutes § 364.183(f) clearly provides that the names of these employees should be kept confidential. To hold otherwise will do nothing more than damage, perhaps irreparably, the reputations of individual Southern Bell employees and expose them personally to public ridicule.

19. All of the information for which Southern Bell requests confidential treatment is intended to be treated as confidential, has been treated as confidential and has not been disclosed to any third party except pursuant to statutory provisions or

private agreement that provides that the information will not be released to the public.

WHEREFORE, Southern Bell requests that the Commission grant its Request for Confidential Classification.

Respectfully submitted,

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FPSC DOCKET 910163-TL
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
REQUEST FOR CONFIDENTIAL CLASSIFICATION

TRANSCRIPTS OF SEPTEMBER 10, 1993 DEPOSITION OF CUTHBERTSON AND SANDERS

JUSTIFICATION FOR CONFIDENTIALITY REQUEST

1. This information is employee personnel information unrelated to compensation, duties, qualifications and responsibilities. As such, this information is confidential business information pursuant to Section 364.183, Florida Statutes, and is exempt from the requirement of public disclosure of Section 119.07, Florida Statutes.

The following information identified by page and line numbers is considered confidential and proprietary:

DEPONENT	PAGE No.	Line Nos.	Reason Proprietary
CUTHBERTON/ SANDERS	10	9,17	1
	13	5,14	1
	14	1	1
	27	7,11,14,15,22	1
	29	9,15	1
	30	11,16	1
	31	3,5,18,20,21,23	1
	32	1,12,17,18,21,24	1
	34	1,2,14,19,20	1
	35	3	1
	EXHIBIT 1		
	2 - 19	ALL (NAMES, TITLES, WS)	1
	20 - 46	ALL (NAMES & PG)	1